

sufficient information to refute the Service's evidence that it has been engaged in flagrant political intervention. The Internal Revenue Service will not proceed to seek an injunction under section 7409 until after the close of this 10-day response period.

(b) *Determination by Commissioner.* If the organization does not respond within 10 calendar days to the letter under paragraph (a) of this section in a manner sufficient to dissuade the Assistant Commissioner (Employee Plans and Exempt Organizations) of the need for an injunction, the file will be forwarded to the Commissioner of Internal Revenue. The Commissioner of Internal Revenue will personally determine whether to forward to the Department of Justice a recommendation that it immediately bring an action to enjoin the organization from making further political expenditures. The Commissioner may also recommend that the court action include any other action that is appropriate in ensuring that the assets of the section 501(c)(3) organization are preserved for section 501(c)(3) purposes. The authority of the Commissioner to make the determinations described in this paragraph may not be delegated to any other persons.

(c) *Flagrant political intervention.* For purposes of this section, *flagrant political intervention* is defined as participation in, or intervention in (including the publication and distribution of statements), any political campaign by a section 501(c)(3) organization on behalf of (or in opposition to) any candidate for public office in violation of the prohibition on such participation or intervention in section 501(c)(3) and the regulations thereunder if the participation or intervention is flagrant.

(d) *Effective date.* This section is effective December 5, 1995.

[T.D. 8628, 60 FR 62213, Dec. 5, 1995]

PROCEEDINGS BY TAXPAYERS AND THIRD PARTIES

§ 301.7422-1 Special rules for certain excise taxes imposed by chapter 42 or 43.

(a) *Finality of refund proceeding.* For purposes of sections 4941, 4942, 4943, 4944, 4945, 4951, 4952, 4955, 4958, 4961, 4963, 4971, and 4975, and the regulations

thereunder, a decision in a suit for refund instituted under the provisions of this section shall be final—

(1) Upon the expiration of the time allowed for filing a notice of appeal from a decision of the United States Claims Court or of the United States District Court, if no timely notice of appeal is filed; or

(2) Upon the expiration of the time allowed for filing a petition for certiorari from a decision of the United States Claims Court, or from a decision of the United States District Court, which has been affirmed or the appeal dismissed by the United States Court of Appeals, if no timely petition for certiorari is filed; or

(3) If a petition for certiorari has been filed, thirty days from the denial of such petition; or

(4) Thirty days from the date of a decision of the United States Supreme Court if no timely petition for rehearing is filed; however, if a timely petition for rehearing from such a decision is filed, and is denied, thirty days from the denial thereof; or

(5) If a decision is entered upon a rehearing or if a decision is modified or reversed as the result of a decision of a higher court, upon the expiration, with respect to the decision on rehearing or the modified or reversed decision, of periods similar to those provided in subparagraphs (1) through (4).

(b) *Right to bring action.* With respect to any taxable event, payment of the full amount of first tier tax for the taxable period shall constitute sufficient payment in order to maintain an action under this section with respect to the second tier tax.

(c) *Limitation on suit for refund.* No suit may be maintained under this section for the credit or refund of any tax imposed under section 4941, 4942, 4943, 4944, 4945, 4951, 4952, 4955, 4958, 4971, or 4975 with respect to any taxable event unless—

(1) No other suit has been maintained for credit or refund of any tax imposed by such sections with respect to such taxable event; and

(2) No petition has been filed in the Tax Court with respect to a deficiency in any tax imposed by such sections with respect to such taxable event.

(d) *Final determination of issues.* For purposes of this section, any suit for the credit or refund of any tax imposed under section 4941, 4942, 4943, 4944, 4945, 4951, 4952, 4955, 4958, 4971, or 4975, together with a supplemental proceeding (if any) under section 4961 (b), with respect to any taxable event, shall constitute a suit to determine all questions with respect to any other tax imposed with respect to such taxable event under such sections. Consequently, failure by the parties to the suit to bring before the Court any question described in the preceding sentence shall constitute a bar to the question.

(e) *Definitions.* For definitions of the terms “taxable event,” “first tier tax,” and “second tier tax,” see § 53.4963-1.

[T.D. 8084, 51 FR 16305, May 2, 1986, as amended by T.D. 8628, 60 FR 62213, Dec. 5, 1995; T.D. 8920, 66 FR 2171, Jan. 10, 2001]

§ 301.7423-1 Repayments to officers or employees.

The Commissioner is authorized to repay to any officer or employee of the United States the full amount of such sums of money as may be recovered against him in any court, for any internal revenue taxes collected by him, with the cost and expense of suit, and all damages and costs recovered against any officer or employee of the United States in any suit brought against him by reason of anything done in the official performance of his duties under the Code.

§ 301.7424-2 Intervention.

If the United States is not a party to a civil action or suit, the United States may intervene in such action or suit to assert any lien arising under title 26 of the United States Code on the property which is the subject of such action or suit. The provisions of section 2410 of title 28 of the United States Code (except subsection (b)) and of section 1444 of title 28 of the United States Code shall apply in any case in which the United States intervenes as if the United States had originally been named a defendant in such action or suit. If the application of the United States to intervene is denied, the adju-

dication in such civil action or suit shall have no effect upon such lien.

[T.D. 7305, 39 FR 9951, Mar. 15, 1974]

§ 301.7425-1 Discharge of liens; scope and application; judicial proceedings.

(a) *In general.* A tax lien of the United States, or a title derived from the enforcement of a tax lien of the United States, may be discharged or divested under local law only in the manner prescribed in section 2410 of title 28 of the United States Code or in the manner prescribed in section 7425 of the Internal Revenue Code. Section 7425 (a) contains provisions relating to the discharge of a lien when the United States is not joined as a party in the judicial proceedings described in subsection (a) of section 2410 of title 28 of the United States Code. These judicial proceedings are plenary in nature and proceed on formal pleadings. Section 7425(b) contains provisions relating to the discharge of a lien or a title derived from the enforcement of a lien in the event of a nonjudicial sale with respect to the property involved. Section 7425 (c) contains special rules relating to the notice of sale requirements contained in section 7425(b). Section 301.7425-2 contains rules with respect to the nonjudicial sales described in section 7425(b). Paragraph (a) of § 301.7425-3 contains rules with respect to the notice of sale provisions of section 7425(c)(1). Paragraph (b) of § 301.7425-3 contains rules relating to the consent to sale provisions of section 7425(c)(2). Paragraph (c) of § 301.7425-3 contains rules relating to the sale of perishable goods provisions of section 7425(c)(3). Paragraph (d) of § 301.7425-3 contains the requirements with respect to the contents of a notice of sale. Section 301.7425-4 prescribes rules with respect to the redemption of real property by the United States.

(b) *Effective date.* The provisions of section 7425, as added by the Federal Tax Lien Act of 1966, are effective with respect to sales described in section 7425 occurring after November 2, 1966. The notice of sale provisions of section 7425 (c) (1) or (3) do not apply to sales occurring after November 2, 1966, if the seller of the property performed an act before November 3, 1966, which act at